

REMARKS

In response to the Office Action dated March 10, 2005, Applicants respectfully request reconsideration based on the above claim amendments and the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

Claims 10-14, 18, 19, 22, 23, 26, 32 and 33 have been amended, and new claims 34 and 35 have been added. Claims 13, 14, 18, 19, 22 and 23 include amendments made to improve grammatical expression and better conform the claims to U.S. patent practice. No new matter has been added and the scope and extent of the claims are neither more limiting nor broader than before the amendment.

Applicant acknowledges the Examiners acceptance of the Description.

Applicant acknowledges the Examiners acceptance of the Drawings.

Applicant acknowledges the Examiners acceptance of the filing of the certified copy of the priority document.

Applicant acknowledges the Examiners acceptance of the IDS.

Claim Objections

Claims 10-12, 22, 26, 32 and 33 were objected to for informalities. Claims 10-12, 26, 32 and 33 have been amended in accordance with the Examiner's recommendations. Regarding claim 22, Applicants respectfully submit that "the object with a region" of line 5, refers to "an object placed between" from line 4, thus "the object" has appropriate antecedent basis. Accordingly, Applicants respectfully request the objections to claims 10-12, 22, 26, 32 and 33 be withdrawn.

Claim Rejections Under 35 U.S.C. §103(a)

In order for an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art must have had a reasonable expectation of success, determined from the vantage point of the

skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996). See MPEP 2143.

Claims 1, 2, 4-6, 8-10, 12, 20, 22, 24, 28, 30 and 32

Claims 1, 2, 4-6, 8-10, 12, 20, 22, 24, 28, 30 and 32 were rejected under 35 U.S.C. §103(a) as being unpatentable over Jensen, U.S. Patent Application Pub. 2002/0085681 in view of Hinton et al., U.S. Patent No. 5,485,502 (hereinafter “Hinton”). Applicants traverse since the cited references fail to teach each and every element of the claimed invention and there is no motivation to combine the references.

Independent claim 1 recites, *inter alia*, driving the mobile support so that it carries out the movement repetitively. Independent claim 9 recites, *inter alia*, the means for control being programmed to control driving movement of the mobile support so that it carries out the movement repetitively. Independent claim 22 recites, *inter alia*, moving the support following a given movement with respect to the means for support, repeated during a given time. Independent claim 32 recites, *inter alia*, wherein the means for control and the means for processing are capable of implementing a method according to claim 22. Thus, each of the independent claims recites a repetitive or repeated nature of the movement of the mobile support.

To the contrary, Jensen provides for movement of a C-arm (12) from a first position (P1 or P3) to a second position (P2 or P4) in Figs. 1-3 and at page 3, paragraph [0031]. There is no disclosure in Jensen regarding repetitive movement of the C-arm (12). Rather Jensen discloses specific movements to positions along an image acquisition path in order to fill in “holes” of an original image at page 6, paragraph [0056].

The Examiner alleges that Jensen discloses driving the mobile support so that it carries out the continuous rotation movement *repetitively* (Fig. 8, #305 and 350) to form a periodically refreshed 3D model of the object (paragraph 53, last 6 lines) (Emphasis added). Paper 200503, page 3.

Contrary to the Examiner’s allegation, Applicant finds that Jensen merely discloses a device that is used for imaging an object and later may be targeted toward specific areas that had poor resolution after a previous imaging. There is no disclosure that the device of Jensen has a

continuous rotation movement that is repetitively performed. It is respectfully submitted that an ability to repeat an imaging scan of a poorly resolved area does not constitute carrying out the movement repetitively, as claimed in the present invention.

Hinton is directed to a radiographic gantry with software for collision avoidance. Hinton teaches movement of a radiographic system (10) from a current point (CP) to a destination point (DP). Hinton fails to disclose a repetitive nature of the movement of the radiographic system (10).

Since neither of the cited references teaches a repetitive or repeated nature of the movement of a mobile support, the cited references do not render independent claims 1, 9, 22 and 32 obvious. Claims 2, 4-6, 8, 10, 12, 20, 24, 28 and 30 depend either directly or indirectly from independent claims 1, 9 and 22, and thus include all the limitations of claims 1, 9 and 22. The dependent claims 2, 4-6, 8, 10, 12, 20, 24, 28 and 30 are patentable for at least the same reasons as given above for the independent claims 1, 9, 22 and 32.

Additionally, there is no motivation to combine the cited references since neither of the references is concerned with the problem the present invention is directed toward solving. Hinton is directed toward driving a gantry for collision avoidance, while Jenson is directed toward providing images of an object for evaluation either pre-operation or post-operation. The present invention is concerned with a repetitive movement of a mobile support in order to refresh images during an interventional procedure, such as an operation. There would be no reason for one seeking to provide accurate images during an operation to combine the cited references.

For all the reasons stated above, Applicants respectfully request the Examiner's reconsideration of the rejections of claims 1, 2, 4-6, 8-10, 12, 20, 22, 24, 28, 30 and 32.

Claim 13

Claim 13 was also rejected under 35 U.S.C. §103(a) as being unpatentable over Jensen in view of Hinton, and further in view of Deucher et al., U.S. Patent No. 5,220,588 (hereinafter "Deucher").

As mentioned above, Jensen and Hinton fail to teach a repetitive or repeated nature of the movement of a mobile support as claimed in claim 9. Deucher fails to cure the deficiencies of Jensen and Hinton with respect to claim 9. Thus, the cited references do not render claim 9 obvious. Claim 13 depends indirectly from claim 9, and thus includes all the limitations of claim 9. The

dependent claim 13 is patentable for at least the same reasons as given above for the independent claim 9.

Accordingly, Applicants respectfully request the Examiner's reconsideration of the rejection of claim 13.

Claims 14-17

Claims 14-17 were also rejected under 35 U.S.C. §103(a) as being unpatentable over Jensen in view of Hinton and Deucher and further in view of Noegel et al., U.S. Patent Application Pub. 2002/0085682 (hereinafter "Noegel").

As mentioned above, Jensen, Hinton and Deucher fail to teach a repetitive or repeated nature of the movement of a mobile support as claimed in claim 9. Noegel fails to cure the deficiencies of Jensen, Hinton and Deucher with respect to claim 9. Thus, the cited references do not render claim 9 obvious. Claims 14-17 depend indirectly from claim 9, and thus include all the limitations of claim 9. The dependent claims 14-17 are patentable for at least the same reasons as given above for the independent claim 9.

Accordingly, Applicants respectfully request the Examiner's reconsideration of the rejection of claims 14-17.

Claims 18, 19 and 21

Claims 18, 19 and 21 were also rejected under 35 U.S.C. §103(a) as being unpatentable over Jensen in view of Hinton and Deucher and further in view of Noegel and Pearson et al., U.S. Patent No. 6,301,324 (hereinafter "Pearson").

As mentioned above, Jensen, Hinton, Deucher and Noegel fail to teach a repetitive or repeated nature of the movement of a mobile support as claimed in claim 9. Pearson fails to cure the deficiencies of Jensen, Hinton, Deucher and Noegel with respect to claim 9. Thus, the cited references do not render claim 9 obvious. Claims 18, 19 and 21 depend indirectly from claim 9, and thus include all the limitations of claim 9. The dependent claims 18, 19 and 21 are patentable for at least the same reasons as given above for the independent claim 9.

Accordingly, Applicants respectfully request the Examiner's reconsideration of the rejection of claims 18, 19 and 21.

Claims 23, 25, 29, 31 and 33

Claims 23, 25, 29, 31 and 33 were also rejected under 35 U.S.C. §103(a) as being unpatentable over Jensen in view of Hinton and further in view of Cenic et al. (“Dynamic CT Measurement of Cerebral Blood Flow: A Validation Study”; hereinafter “Cenic”).

As mentioned above, Jensen and Hinton fail to teach a repetitive or repeated nature of the movement of a mobile support as claimed in claim 22. Cenic fails to cure the deficiencies of Jensen and Hinton with respect to claim 22. Thus, the cited references do not render claim 22 obvious.

Claims 23, 25, 29 and 31 depend directly or indirectly from claim 22, and thus include all the limitations of claim 22. The dependent claims 23, 25, 29 and 31 are patentable for at least the same reasons as given above for the independent claim 22. Additionally, claim 33 provides a means for performing the method of claim 23, which is believed to be patentable, thus claim 33 is believed to be patentable for at least the same reasons as given above for claim 23.

Accordingly, Applicants respectfully request the Examiner’s reconsideration of the rejection of claims 23, 25, 29, 31 and 33.

Claims 3, 7, 11, 26 and 27

Claims 3, 7, 11, 26 and 27 were also rejected under 35 U.S.C. §103(a) as being unpatentable over Jensen in view of Hinton and Cenic and further in view of Kruger et al., U.S. Patent No. 4,577,222 (hereinafter “Kruger”).

As mentioned above, Jensen and Hinton fail to teach a repetitive or repeated nature of the movement of a mobile support as claimed in claims 1, 9 and 22. Cenic and Kruger fail to cure the deficiencies of Jensen and Hinton with respect to claims 1, 9 and 22. Thus, the cited references do not render claims 1, 9 and 22 obvious. Claims 3, 7, 11, 26 and 27 depend either directly or indirectly from respective independent claims 1, 9 and 22, and thus include all the limitations of their respective independent claims. The dependent claims 3, 7, 11, 26 and 27 are patentable for at least the same reasons as given above for the independent claims 1, 9 and 22.

Accordingly, Applicants respectfully request the Examiner’s reconsideration of the rejection of claims 3, 7, 11, 26 and 27.

Newly Added Claims

Applicants have added new claims 34 and 35 to more particularly define aspects of the present invention. The new claims include no new matter and are fully supported by the specification and the drawings of the present application.

Accordingly, it is believed that the new claims are in condition for allowance.

Conclusion

In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this application, Applicants' attorney hereby authorizes that such fee be charged to Deposit Account No. 50-2513.

Respectfully submitted,

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Date: June 9, 2005